

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE ENROLLED ACT No. 1360

AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-30-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "eligible ~~applicant~~ **recipient**" means the following:

(1) Any ~~entity with the authority to impose ad valorem property taxes except townships, including counties, cities, towns, special taxing districts, school corporations, and any other entity that is granted by statute or ordinance a right to impose user fees or charges (referred to as political subdivisions in this chapter) as long as the application is signed by the executive of the political subdivision (as defined in IC 36-1-2-13).~~

(2) A volunteer fire department (as defined in IC 36-8-12-2) or another group recognized by a political subdivision (as defined in IC 36-1-2-13) as a group providing firefighting or other emergency services to the area served by the political subdivision, the majority of members of which receive no compensation or nominal compensation for their services.

(3) A corporation, community chest, community fund, or community foundation that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(2) (4) The state, as long as the application is signed by the governor.

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~~(3)~~ **(5)** A state funded institutions of higher education; as long as the application is approved by the higher education commission: **educational institution (as defined in IC 20-12-0.5-1).**

(6) Any body corporate and politic that serves as an instrumentality of the state.

SECTION 2. IC 4-30-17-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. ~~(a) Two (2)~~ segregated accounts shall be established within the build Indiana fund as follows:

~~(1)~~ The state and local capital projects account:

~~(2)~~ The lottery and gaming surplus account:

~~(b)~~ Upon receiving surplus lottery revenue distributions from the state lottery commission and surplus gaming revenue distributions from the state gaming commission; the treasurer of state shall credit the surplus lottery revenue and surplus gaming revenue to the lottery and gaming surplus account. All money remaining in the lottery and gaming surplus account after the transfer required by subsection ~~(c)~~ shall be transferred to the state and local capital projects account.

~~(c)~~ **(a)** Before the twenty-fifth day of the month, the auditor of state shall transfer from the lottery and gaming surplus account **build Indiana fund** to the state general fund motor vehicle excise tax replacement account an amount equal to the following:

~~(1)~~ In calendar year 1996; eleven million six hundred twenty-five thousand dollars (\$11,625,000) per month:

~~(2)~~ In calendar year 1997; twelve million nine hundred twenty-five thousand twenty dollars (\$12,925,020) per month:

~~(3)~~ In calendar year 1998; fifteen million ten thousand dollars (\$15,010,000) per month:

~~(4)~~ In calendar year 1999; seventeen million one hundred ninety-two thousand dollars (\$17,192,000) per month:

~~(5)~~ In calendar year 2000 nineteen million four hundred thirty-five thousand two hundred ten dollars (\$19,435,210) per month:

~~(6)~~ In calendar year 2001 and each year thereafter; nineteen million six hundred eighty-four thousand three hundred seventy dollars (\$19,684,370) per month.

~~(d)~~ **(b)** This subsection applies only if insufficient money is available in the lottery and gaming surplus account of the build Indiana fund to make the distributions to the state general fund motor vehicle excise tax replacement account that are required under subsection ~~(c)~~:

(a). Before the twenty-fifth day of each month, the auditor of state shall transfer from the state general fund to the state general fund motor

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vehicle excise tax replacement account the difference between:

- (1) the amount that subsection ~~(c)~~ (a) requires the auditor of state to distribute from the ~~lottery and gaming surplus account of the~~ build Indiana fund to the state general fund motor vehicle excise tax replacement account; and
- (2) the amount that is available for distribution from the ~~lottery and gaming surplus account in the~~ build Indiana fund to the state general fund motor vehicle excise tax replacement account.

The transfers required under this subsection are annually appropriated from the state general fund.

SECTION 3. IC 4-30-17-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.1. (a) Money ~~required to be credited to the state and local capital projects account~~ **build Indiana fund, after making the disbursements required under section 3.5 of this chapter,** may be used only for:

- (1) state ~~and~~ or local capital projects **that are managed or carried out by an eligible recipient;** or for
- (2) deposit in a revolving loan fund ~~that may only be used for~~ capital projects.

(b) An expenditure of money from the build Indiana fund for a state or local capital project must be certified by the budget agency to the budget committee under section 4.5 of this chapter before the project may be reviewed and approved under section 10 of this chapter.

(c) As used in this chapter, "capital projects project" refers to a capital project to which the general assembly has appropriated money from the build Indiana fund by project name, name of an eligible recipient, or other description of the capital project. The term ~~include~~ includes:

- (1) the construction of airports, airport facilities, and local street and road projects; ~~A~~
- (2) an airport development project that is eligible for a grant or loan under IC 8-21-11; and
- (3) any other:
 - (A) acquisition of land;
 - (B) site improvements;
 - (C) infrastructure improvements;
 - (D) construction of buildings or structures;
 - (E) rehabilitation, renovation, or enlargement of buildings or structures; or
 - (F) acquisition or improvement of machinery, equipment, furnishings, or facilities;



(or any combination of these), that comprises or is functionally related to an activity that serves a governmental, a recreational, a cultural, a community, a health, a charitable, a scientific, a public safety, a literary, or an educational purpose, fosters amateur sports competition, or fosters prevention of cruelty to children.

(d) As used in this chapter, "state project" is refers to a capital project that is proposed by the state or the higher education commission. A managed or carried out by an eligible recipient described in section 2(4) through 2(6) of this chapter.

(e) As used in this chapter, "local project" is refers to a capital project proposed by a political subdivision. An airport development project that is managed or carried out by an eligible for a grant or loan under IC 8-21-11 is a local capital project. recipient described in section 2(1) through 2(3) of this chapter.

(d) The money required to be credited to the state and local capital projects account must be used to promote the maximum use of other funds for capital projects, including using local matching requirements; the consideration of various kinds of credit enhancements; and the remarketing of debt issues secured by money in the state and local capital projects account.

(f) In appropriating money from the build Indiana fund for state and local capital projects, the general assembly shall, to the extent practicable, allocate money:

(1) equally among legislative districts for the house of representatives; and

(2) equally among legislative districts for the senate; without regard to the political affiliation of the member of the general assembly representing the legislative district or the voting preferences of the legislative district.

(g) In reviewing and approving projects under section 10 of this chapter, the budget committee and the governor shall carry out a program under which, to the extent that projects otherwise qualify for funding, money for projects is disbursed:

(1) equally among legislative districts for the house of representatives; and

(2) equally among legislative districts for the senate; without regard to the political affiliation of the member of the general assembly representing the legislative district or the voting preferences of the legislative district.

SECTION 4. IC 4-30-17-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE



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UPON PASSAGE]: Sec. 4.5. (a) To receive funding for a state or local capital project, an eligible recipient must provide the budget agency with a project statement on a form prescribed under subsection (b).

(b) The budget agency shall prescribe a project statement form for its use in certifying eligible recipients under this section. The form must require the entity submitting the project statement to provide the following information:

- (1) The name, mailing address, federal tax identification number, and state tax identification number of the eligible recipient.
- (2) The legal status of the eligible recipient, including whether the eligible recipient is a governmental entity, a state educational institution, a volunteer fire department, or an entity exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code.
- (3) The full name, title, address, and telephone number of the individual who will serve as the contact person for the project and a description of any contractual relationship that the person has with the eligible recipient, if the person is not a member or an employee of the eligible recipient.
- (4) A list of the full name and address of any individual who is associated with the eligible recipient and who serves as a presiding officer of a governing board, a managing partner, an officer, or an office manager of the eligible recipient.
- (5) The name and a description of the project.
- (6) The street or other physical address where the project will be located when completed.
- (7) A statement of the need for the project.
- (8) An estimate of the total project cost.
- (9) The current status of the project, including the percentage of completion at the time the project statement is submitted, for which funding is requested.
- (10) The anticipated completion date for the project.
- (11) The amounts of funding previously appropriated or received from the build Indiana fund, including information concerning any funds not spent at the time the project statement is submitted.
- (12) An itemization of all other governmental and private sources of funds for the particular project.
- (13) The name, position, and telephone number of a contact person associated with any funding source identified under

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subdivision (12).

(14) The financial institution where all funds received under this chapter will be deposited.

(15) The name, position, and telephone number of a contact person employed by the financial institution listed under subdivision (14).

(16) Any additional or alternative information required by the budget agency.

(c) The budget agency shall review each project statement submitted under this section. If the budget agency determines that:

- (1) the project statement is complete;
- (2) the recipient qualifies as an eligible recipient; and
- (3) an appropriation applies to the eligible recipient and project;

the budget agency shall certify to the budget committee that the eligible recipient and capital project have complied with this section and provide a copy of the project statement to the budget committee.

SECTION 5. IC 4-30-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. Money appropriated from the state or local capital projects account approved by the general assembly the build Indiana fund may not be expended on a state or local capital project or transferred to a revolving fund for capital projects until the state or local capital project or transfer is reviewed by the budget committee and approved by the governor upon the recommendation of the budget agency.

SECTION 6. IC 4-30-17-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Each eligible recipient that is approved to receive money from the build Indiana fund under section 10 of this chapter must, as a condition of receiving money from the build Indiana fund, enter into a funding agreement with the budget agency.

(b) The agreement required under subsection (a) must obligate the eligible recipient to do the following:

- (1) Complete the project in conformity with the information in the project statement reviewed and approved under section 10 of this chapter and any subsequent agreements reviewed by the budget committee and approved by the governor, upon recommendation of the budget agency.
- (2) Acknowledge, on a form prescribed by the budget agency, the receipt and deposit of money received from the build



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Indiana fund. The written acknowledgment must include proof that the funds have been deposited in the financial institution listed in the documents described in subdivision (1) and must be submitted to the budget agency within ten (10) business days after receipt of the money.

(3) Account for money received from the build Indiana fund in accordance with generally accepted accounting principles, the accounting guidelines established by the state board of accounts, or an alternative method of accounting approved by the state board of accounts.

(4) Be subject to the audit and the reporting requirements under IC 5-11-1 (state board of accounts) for each year, beginning with the year in which money from the build Indiana fund is received and ending with the year in which the project is completed.

(5) Upon request, provide for the contact person specified in the project statement or another person who is knowledgeable about the project to appear and give testimony to the budget committee concerning the project.

(6) Submit to the budget agency, on a form prescribed by the budget agency, verification of the completion of the project not later than ten (10) business days after the project is complete.

(7) If a project is not completed by the anticipated completion date specified in the documents described in subdivision (1), submit to the budget agency, on a form prescribed by the budget agency, information as to the reason the project is not complete and the revised completion date of the project. The form must be submitted before the anticipated completion date specified in the documents described in subdivision (1).

(8) Pay reasonable attorney's fees and other reasonable expenses incurred to enforce the provisions of the agreement described in subdivisions (1) through (7), collect reimbursement of project funds under subsection (d), or prosecute a violation of the agreement.

(c) The budget agency shall monitor compliance with the agreement required under subsection (a).

(d) In addition to any other remedy provided by law, if the eligible recipient fails to comply with a condition of the agreement required under subsection (a), the budget agency may, under the procedures set forth in IC 4-21.5, require the entity to repay all the funds distributed to the eligible recipient under this chapter. The

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budget agency shall give notice of the order under IC 4-21.5-3-4. Money repaid under this section shall be deposited in the build Indiana fund.

SECTION 7. IC 4-30-17-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Upon compliance with this chapter, the appropriated amount for the state or local capital project shall be distributed to the eligible recipient. Subject to the review and approval required under section 10 of this chapter, the authorized amount may be distributed as a lump sum distribution in the full amount of the appropriation or in a series of progress payments. Upon receipt of documentation showing that the eligible recipient has paid or is contractually obligated to pay an expenditure for a project, the appropriation may be distributed to the eligible recipient. Before making the initial distribution of money from the build Indiana fund for a state or local capital project, at least seven (7) days notice of the following shall be given to each member of the general assembly who represents the area that will be most benefited by the state or local capital project and each regular member of the budget committee (as determined under IC 4-12-1-3) who is affiliated with the same political party and serves in the same legislative chamber as a member of the general assembly who represents the area:

- (1) A copy of the project statement for the project.
- (2) The approximate date that the money will be distributed.

(b) Money distributed under this section must be distributed either by:

- (1) means of an electronic funds transfer (as defined in IC 4-8.1-2-7); or
- (2) delivery of a warrant of the auditor of state by certified mail.

SECTION 8. IC 4-30-17-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. There is annually appropriated to the budget agency a sufficient amount from the build Indiana fund for the budget agency to:

- (1) carry out its responsibilities under this chapter; and
- (2) notwithstanding IC 5-11-4-3, pay the expense of examination and investigation of accounts related to a state or local capital project.

SECTION 9. IC 4-31-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) At the close of each day

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on which a permit holder or satellite facility operator conducts pari-mutuel wagering on live racing or simulcasts at a racetrack or satellite facility, the permit holder or satellite facility operator shall pay to the department of state revenue a tax on the total amount of money wagered on that day as follows:

- (1) Two percent (2%) of the total amount of money wagered on live races and simulcasts conducted at a permit holder's racetrack.
- (2) Two and one-half percent (2.5%) of the total amount of money wagered on simulcasts at satellite facilities, regardless of whether those simulcasts originate from Indiana or another state.

(b) The taxes collected under subsection (a) shall be paid from the amounts withheld under section 1 of this chapter and shall be distributed as follows:

- (1) The first one hundred fifty thousand dollars (\$150,000) of taxes collected during each state fiscal year shall be deposited in the veterinary school research account established by IC 4-31-12-22.
- (2) The remainder of the taxes collected during each state fiscal year shall be paid into the ~~lottery and gaming surplus account~~ in the build Indiana fund.

(c) The tax imposed by this section is a listed tax for purposes of IC 6-8.1-1.

SECTION 10. IC 4-32-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. Before the last business day of January, April, July, and October, the department shall, upon approval of the budget agency, transfer the surplus revenue to the treasurer of state for deposit in ~~the lottery and gaming surplus account~~ in the build Indiana fund.

SECTION 11. IC 4-33-13-5, AS AMENDED BY P.L.273-1999, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

- (1) Twenty-five percent (25%) of the tax revenue remitted by each licensed owner shall be paid:
 - (A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a city described in IC 4-33-12-6(b)(1)(A);
 - (B) in equal shares to the counties described in IC 4-33-1-1(3), in the case of a riverboat whose home dock is on Patoka Lake;
 or



(C) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A) or a county described in clause (B); and

(2) Seventy-five percent (75%) of the tax revenue remitted by each licensed owner shall be paid to the build Indiana fund. ~~lottery and gaming surplus account.~~

SECTION 12. IC 4-34-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The Indiana technology fund is established. Money in the fund at the end of a state biennium reverts to the build Indiana fund. ~~state and local capital projects account (IC 4-30-17-3.5).~~

SECTION 13. IC 6-6-5-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.5. (a) Before the twentieth day of each month the bureau shall do the following:

(1) Determine the amount of excise taxes that would have been collected for each county for the preceding month based on the tax rate schedule that was in effect on January 1, 1995.

(2) Determine and report to the auditor of state the difference between what was actually collected for each county for that month and what would have been collected at the January 1, 1995, rates.

(b) For the months of January through November, the auditor of state shall determine a monthly uniform disbursement percentage to be applied in determining the amount of motor vehicle excise tax replacement money to be disbursed to each county. The monthly uniform disbursement percentage equals the quotient of the sum of the amounts transferred under IC 4-30-17-3.5 plus the amounts transferred under subsections (f) and (g) to the motor vehicle excise tax replacement account in the month of the bureau's report divided by the sum of the total differences for all counties, as determined under subsection (a) and identified in the bureau's report for that month.

(c) For December, the auditor of state shall determine an annual uniform disbursement percentage to be applied in determining the amount of motor vehicle excise tax replacement money to be disbursed to each county in December as an annual adjustment.

(d) The annual uniform disbursement percentage equals the quotient of the sum of the amounts transferred under IC 4-30-17-3.5 plus the amounts transferred under subsections (f) and (g) to the motor vehicle excise tax replacement account in the months of January through December divided by the sum of the total differences for all counties, as determined under subsection (a) and identified in the bureau's

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reports for the months of January through December.

(e) For the months of January through November, the auditor of state shall distribute to the county the amount of the difference determined under subsection (a) in the month of the bureau's report for that county, multiplied by the monthly uniform disbursement percentage for that month. For December, the auditor shall distribute to the county the total difference in the bureau's reports determined under subsection (a) in the months of January through December for that county, multiplied by the annual uniform disbursement percentage, less the amounts distributed to the county in January through November. However, the total distribution to a county in a calendar year may not exceed the total difference in the bureau's reports determined under subsection (a) in the months of January through December for that county in the year.

(f) The transfers under this subsection are in addition to the transfers required under IC 4-30-17-3.5 and subsection (g). Before the twenty-fifth day of each month, the auditor of state shall transfer from the state general fund to the state general fund motor vehicle excise tax replacement account ~~the following~~:

- (1) ~~In calendar year 1996, nine million four hundred fifty-one thousand one hundred eighty-five dollars (\$9,451,185).~~
- (2) ~~In calendar year 1997, seven million two hundred seventy-six thousand three hundred seventy-seven dollars (\$7,276,377).~~
- (3) ~~In calendar year 1998, five million one hundred eight thousand fourteen dollars (\$5,108,014).~~
- (4) ~~In calendar year 1999, two million seven hundred seventy-five thousand six hundred nine dollars (\$2,775,609).~~
- (5) ~~In calendar year 2000, three hundred seventy-four thousand six hundred seven dollars (\$374,607).~~
- (6) ~~In calendar year 2001 and thereafter, sixteen thousand nine hundred seventy-four dollars (\$16,974).~~

The transfers required under this subsection are annually appropriated from the state general fund.

(g) This subsection applies only after December 31, 1995, and applies only if insufficient money is available in ~~the lottery and gaming surplus account~~ of the build Indiana fund to make the distributions to the state general fund motor vehicle excise tax replacement account that are required under IC 4-30-17-3.5. Before the twenty-fifth day of each month, the auditor of state shall transfer from the state general fund to the state general fund motor vehicle excise tax replacement account the difference between:

- (1) the amount that IC 4-30-17-3.5 requires the auditor of state to



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distribute from ~~the lottery and gaming surplus account~~ of the build Indiana fund to the state general fund motor vehicle excise tax replacement account; and

(2) the amount that is available ~~under IC 4-30-17-3.5~~ for distribution from ~~the lottery and gaming surplus account in the~~ build Indiana fund to the state general fund motor vehicle excise tax replacement account.

The transfers required under this subsection are annually appropriated from the state general fund.

(h) Any money remaining in the motor vehicle excise tax replacement account after the last county distribution in December shall be transferred to the build Indiana fund. ~~state and local capital projects account established under IC 4-30-17-3.5~~. The auditor of state shall make the distribution before the end of the month the auditor receives the bureau's report.

(i) The money needed for the distribution shall be withdrawn from the motor vehicle excise tax replacement account. There is appropriated from the state general fund motor vehicle excise tax replacement account, the amount needed to make the distributions required by this section.

(j) Distributions made under this section are considered motor vehicle excise taxes for purposes of allocating revenue among taxing units under this chapter.

SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 4-30-17-1; IC 4-30-17-5; IC 4-30-17-6; IC 4-30-17-7; IC 4-30-17-7.5; IC 4-30-17-8; IC 4-30-17-9.

SECTION 15. [EFFECTIVE UPON PASSAGE] (a) **As used in this SECTION, "build Indiana fund account" means any of the following accounts in the build Indiana fund established by IC 4-30-17-3:**

- (1) **The state and local projects account.**
- (2) **The lottery and gaming surplus account.**
- (3) **The job creation and economic development account.**

(b) **As used in this SECTION, "capital project" has the meaning set forth in IC 4-30-17-4.1, as amended by this act.**

(c) **As used in this SECTION, "eligible recipient" has the meaning set forth in IC 4-30-17-2, as amended by this act.**

(d) **Any reference to a build Indiana fund account in a law, agreement, or other document that was created before the effective date of this SECTION shall be treated on and after the effective date of this SECTION as a reference to the build Indiana fund.**

(e) **If an eligible recipient submitted an application to the state**

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for funding from the build Indiana fund before the effective date of this act and the budget agency has available to it the information necessary to process the application, the budget agency shall use the information to process the application without requiring resubmission of the information on any particular form or in a different format.

SECTION 16. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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